

SUPREME COURT OF ARKANSAS

No.

IN RE: Arkansas Rules and Regulations for
Minimum Continuing Legal
Education

Opinion Delivered

PER CURIAM

We have under consideration three requests from the Arkansas Continuing Legal Education Board (Board) to modify sections of the Continuing Legal Education (CLE) rules or regulations. We respond to each request as set out below.

BASIC SKILLS REQUIREMENT

The existing language of Rules 2.(C), and 2.(D), and Regulation 2.01, set forth educational requirements for non-resident attorneys who return to Arkansas, as well as inactive attorneys who return to the active practice of law. Particularly, such attorneys are expected to acquire 36 hours of approved CLE, which must include 12 hours of “basic skills or bar examination review course”. These provisions affect approximately 15 attorneys per year.

The Board asks that the 12 hour “basic skills or bar examination review course” provision be removed. The Board notes that the availability of such programming is limited and expensive, and the attorneys affected by this requirement will be better served by attending CLE programming which would fit more closely with their area of practice. The 36 hour requirement would remain. We accept the Board’s recommendation and amend the Rules and Regulations to read as set out below.

Rule Changes

2.(C) Non Resident Attorneys:

(1) Attorneys who are members of the Bar of Arkansas, but reside outside this State, are required to meet the minimum continuing legal education requirements of their resident state. Such attorneys shall complete annual certification forms to that effect. These forms will be filed with the Arkansas Continuing Legal Education Board on or before the October 31 which succeeds the reporting period in question. Such certifications shall be subject to verification through the agency which administers the continuing legal education program for such resident state. In the event an attorney is a member of the Bar of Arkansas, yet resides in a state or foreign jurisdiction where there is no continuing legal education requirement, such attorneys shall be annually required to file with the Arkansas Continuing Legal Education Board a certification form confirming that fact. This form shall be filed on or before the October 31 which succeeds the reporting period in question. Further, in the event an attorney returns to the practice of law in the State of Arkansas from a state where there has been no continuing legal education requirement that attorney shall be required, by the end of the first reporting period after the attorney's return, to acquire thirty-six (36) hours of accredited continuing legal education.

2.(D) Inactive Status:

(3) Such attorneys shall be required to obtain thirty-six (36) hours of qualified continuing legal education between the date of return to active status (which is the date the reinstatement fee is received by the Board) and the end of the next succeeding reporting period.

All other language of Rule 2 is unaffected by this order.

Regulation Changes

2.01 Non-Resident Attorneys:

An attorney's residence is presumed to be the address the attorney maintains with the Office of the Arkansas Supreme Court Clerk. Attorneys who maintain Arkansas licenses, but reside outside this State and are licensed in the state of their residence, are required to meet the minimum continuing legal education requirements of their resident state. Arkansas licensed attorneys residing in a state which requires continuing legal education but who are not licensed in that state, are inactive in that state, or for any other reason are denied the opportunity to participate in the continuing legal education programs of that state, are considered in compliance with the requirements of their resident state. However, such attorneys who return to the practice of law in Arkansas shall be required to acquire thirty-six (36) hours of approved CLE courses by the end of the first reporting period that succeeds the reporting period in which they return. Notwithstanding this provision, the attorney may choose to remain current in Arkansas pursuant to Rule 2(C). Attorneys who move from a state which does not require minimum continuing legal education to a state other than Arkansas which does require minimum continuing legal education are required to meet the requirements of that state.

“IN-HOUSE” CLE PROGRAMS

Presently, a private law firm may conduct an “in-house” program for the benefit of its own attorneys. The program must be approved before it is conducted and “appropriate” notification must be provided to the local bar. Due to the uncertainty of that notification requirement, the Board asks that Regulation 4.04(4)(b) and (c) be amended. The affect of such amendments would require the approval of the program 30 days before it is conducted. In that manner, the program will be publicized through the Board’s calendar of scheduled CLE programs which is updated weekly. We approve the Board’s request and amend the Regulation to read as set forth below.

4.04 Approved CLE Activities

(4) In-House Programs

In-house programs are available as a means of acquiring CLE credits provided:

(b) The application and documentation for in-house programs conducted in Arkansas must be submitted to the Secretary in advance of the scheduled event and be approved thirty (30) days before the scheduled event.

(c) A minimum of three (3) “out-of-firm” attorneys must be allowed to attend such programs. Each firm may set reasonable limits on the total number of such “out-of-firm” attendees.

All other provisions of Regulation 4.04(4) remain intact.

LIVE COMPUTER INTERACTIVE CLE PROGRAMMING

When the CLE rules were adopted in 1988, the Court approved “live telephone conferences” as set out in Regulation 4.04(7). The advent of the internet has allowed the development of live computer interactive CLE programs. In all respects, such programming is essentially the same as live telephone conferences in that the participants: are engaged in the program contemporaneous with its live presentation; can ask questions; can evaluate the program; and will have the sponsor of the program submit a certificate of attendance detailing the time each attorney has been on line. The Board has requested that the mentioned regulation be amended to include live computer interactive presentations. We agree and amend Regulation 4.04(7) to read as follows.

4.04 Approved CLE Activities

(7) Live Telephone Conferences

CLE programs presented via live telephone conferences and live computer interactive programs are acceptable provided such programs comply with relevant portions of Rule 4.(C). For the purpose of this regulation, “live” means that the attorney is participating in the CLE program contemporaneous with its live presentation.